

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.700 OF 2006

Shrikant Shivaji Patil & Ors. ... Appellants

V/s.

Shivaji Maruti Patil & Ors. ... Respondents

Mr.M.A. Patil for Appellants

Mr.A.A. Joshi for Respondent Nos.3 and 4

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 13, 2007**

P.C.:

. The plaintiffs filed a suit against the defendants claiming that Defendant No.1 had sold the joint family property to Defendant No.4. Plaintiff No.3 is the wife of Defendant No.1 and plaintiff Nos.1 and 2 are his children. The suit filed by them for a declaration and injunction has been dismissed by the trial Court. The appellate Court has confirmed the view of the trial Court. Both the Courts have held that the suit property was not a joint family property. Defendant No.1 had acquired that property in the year 1982. The plaintiff was born in 1984 and therefore he had no co-parcenary right to that property. The learned advocate for the appellant seeks to rely on the amendment to the Hindu Succession Act brought into force on 22.9.1994 to contend that plaintiff No.2 had an equal right as an unmarried daughter to the co-parcenary

property. Admittedly, this amendment which was brought into force on 22.6.1995 has prospective effect and, therefore, is of no avail to the appellants. Besides, the property is not a joint family property and hence, this amendment would be of no avail to the appellants. Appeal dismissed.

2. In view of the dismissal of the Appeal itself, Civil Application No.2368 of 2005 does not survive and the same is dismissed accordingly.